

WHEN TO USE ADR

As soon as you are aware that you have a dispute which may result in a lawsuit, you may want to develop a strategic approach to resolving the dispute.

BEFORE YOU FILE A LAWSUIT CONSIDER:

- **Direct Negotiation** - Talk to the other party directly, on the phone, or send a letter. Propose a negotiated settlement.
- **Mediation** - If they are unwilling to talk directly or the discussion is not productive suggest a mediator might be helpful. Mediators are trained to conduct a neutral process to explore options for resolving disputes.
- Contact a lawyer and ask them to assist you in the negotiations and mediation and if necessary file a lawsuit.

AFTER YOU FILE A LAWSUIT:

- Information about ADR is a part of the civil lawsuit filing package, which must be served on all parties to the suit. The ADR packet includes a Stipulation to ADR, consider signing the document before you serve the papers to send the message that even though you are suing them, you would prefer to find other ways to resolve the dispute.
- You must file a Case Management Statement (Form CM-110). This form includes options to go to ADR; please check the box for your preferred ADR process. Some judges will vacate the next court date and send the case to ADR based on information included in the CM-110.

Most civil lawsuits are resolved before going to trial. Knowing that you will likely negotiate a settlement before going to trial, prepare for the negotiations now. If mediation of your dispute is not working, it is your choice (or the other party's choice) to end the mediation. You may decide to return to mediation later, find a different mediator, return to direct negotiations or decide to prepare for a trial.

CAN I MAKE THE OTHER SIDE USE MEDIATION?

No. Mediation is completely voluntary and all parties must agree to mediate. The Court strongly encourages exploring ADR as a way to resolve your dispute prior to bringing it to trial.